

ESTTA Tracking number: **ESTTA569010**

Filing date: **11/05/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058067
Party	Plaintiff Techworld Technologies dba Troi.net
Correspondence Address	FRANK J COLUCCI COLUCCI & UMANS 218 EAST 50TH STREET NEW YORK, NY 10022 UNITED STATES fcolucci@colucci-umans.com, klyon@colucci-umans.com, email@colucci-umans.com
Submission	Other Motions/Papers
Filer's Name	Frank J. Colucci
Filer's e-mail	fcolucci@colucci-umans.com, klyon@colucci-umans.com, email@colucci-umans.com
Signature	/Frank J. Colucci/
Date	11/05/2013
Attachments	Notice of Ineffective Service.pdf(284631 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 4,130,088
Issued: April 24, 2012

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TECHWORLD TECHNOLOGIES d/b/a TROI.NET, : Cancellation

Petitioner, : No. 92058067

v. :

TROI, LLC, :

Respondent. :

- - - - - x

NOTICE OF INEFFECTIVE SERVICE

On October 22, 2013, Petitioner, Techworld Technologies d/b/a Troi.net, (herein "Petitioner"), served its Petition for Cancellation on Troi, LLC (herein "Respondent"), by first-class mail, postage prepaid, at Respondent's principal office and place of business at 601 West Riverside, Suite 800, Spokane, Washington 99201. This address is identified by Respondent as its principal office and place of business in connection with its United States Registration No. 4,130,088, which is the subject of this cancellation proceeding. Attached hereto as Exhibit A is a true and correct copy of a print-out from the Trademark Status & Document Retrieval System of the current status of U.S. Registration No. 4,130,088, which includes Registrant's address.

On October 28, 2013, Petitioner's Petition for

Cancellation was returned by the United States Postal Service ("USPS"), for the reasons that the envelope was not deliverable as addressed and that the USPS was unable to forward the envelope to Respondent's proper address. Attached hereto as Exhibit B is a true and correct copy of the envelope sent to Respondent, which contained the service copy of the Petition for Cancellation and which was returned to Petitioner on October 28, 2013 as "not deliverable as addressed, unable to forward".

As a courtesy, on November 4, 2013, Petitioner's counsel sent an email to Respondent at bjeckle@lukins.com, which is the email address associated with Respondent's United States Registration No. 4,130,088. Petitioner's email notified Respondent of the filing and attempted service of the Petition for Cancellation. Attached hereto as Exhibit C is a true and correct copy of the email sent from Petitioner's counsel to Respondent's email address of record.

Dated: New York, New York
November 5, 2013

Respectfully submitted,

COLUCCI & UMANS

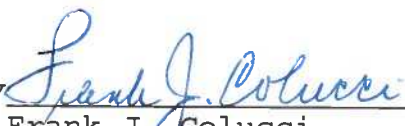
By 
Frank J. Colucci
Attorneys for Petitioner
218 East 50th Street
New York, New York 10022
(212) 935-5700

EXHIBIT A

Generated on: This page was generated by TSDR on 2013-11-04 21:50:49 EST

Mark: TROI

TROI

US Serial Number: 76705756
US Registration Number: 4130088

Application Filing Date: Dec. 20, 2010

Registration Date: Apr. 24, 2012

Register: Principal

Mark Type: Service Mark

Status: A cancellation proceeding is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Oct. 23, 2013

Publication Date: Feb. 07, 2012

Mark Information

Mark Literal Elements: TROI

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [.] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks "*" identify additional (new) wording in the goods/services.

For: Technology support services, namely, hosted, remote, and onsite software and hardware management services for monitoring the operation of computer hardware and software, maintaining computer software and administration of computer systems, namely, computer technology support services for trouble-shooting computer hardware and software

International Class(es): 042 - Primary Class

U.S. Class(es): 100, 101

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 01, 2005

Use in Commerce: Jul. 01, 2005

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: TROI, LLC

Owner Address: 601 West Riverside, Suite 800
Spokane, WASHINGTON 99201
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where
Organized: WASHINGTON

Attorney/Correspondence Information

Attorney of Record

Attorney Name: William A. Jeckle

Docket Number: TROI

Attorney Primary Email
Address: wjeckle@lukins.com

Attorney Email
Authorized: No

Correspondent

Correspondent: TROI LLC

Name/Address: 601 WEST RIVERSIDE SUITE 800
SPOKANE, WASHINGTON 99201
UNITED STATES

Phone: (509) 242-2222

Fax: (509) 363-5200

Correspondent e-mail: bieckle@lukins.com

Correspondent e-mail No
Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Oct. 23, 2013	CANCELLATION INSTITUTED NO. 999999	58067
Apr. 24, 2012	REGISTERED-PRINCIPAL REGISTER	
Feb. 07, 2012	PUBLISHED FOR OPPOSITION	
Jan. 18, 2012	NOTICE OF PUBLICATION	
Jan. 04, 2012	LAW OFFICE PUBLICATION REVIEW COMPLETED	67287
Jan. 03, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 13, 2011	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Dec. 12, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Dec. 12, 2011	TEAS REQUEST FOR RECONSIDERATION RECEIVED	
Aug. 09, 2011	FINAL REFUSAL MAILED	
Aug. 08, 2011	FINAL REFUSAL WRITTEN	85328
Aug. 05, 2011	AMENDMENT FROM APPLICANT ENTERED	67287
Aug. 05, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	67287
Jul. 22, 2011	ASSIGNED TO LIE	67287
Jul. 15, 2011	PAPER RECEIVED	
Mar. 28, 2011	NON-FINAL ACTION MAILED	
Mar. 28, 2011	NON-FINAL ACTION WRITTEN	85328
Mar. 21, 2011	ASSIGNED TO EXAMINER	85328
Jan. 03, 2011	APPLICATION FILING RECEIPT MAILED	
Jan. 01, 2011	APPLICATION FILING RECEIPT MAILED	
Jan. 01, 2011	APPLICATION FILING RECEIPT MAILED	
Jan. 01, 2011	APPLICATION FILING RECEIPT MAILED	
Dec. 28, 2010	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Apr. 24, 2012

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Cancellation

Proceeding Number: 92058067

Filing Date: Oct 22, 2013

Status: Pending

Status Date: Oct 22, 2013

Interlocutory Attorney: GEORGE POLOGEORGIS

Defendant

Name: Troi, LLC

Correspondent Address: TROI LLC
601 WEST RIVERSIDE SUITE 800
SPOKANE WA , 99201
UNITED STATES

Associated marks

Serial

Registration

Mark	Application Status	Number	Number
TROI	Cancellation Pending Plaintiff(s)	<u>76705756</u>	<u>4130088</u>

Name: Techworld Technologies dba Troi.net

Correspondent Address: FRANK J COLUCCI
COLUCCI & UMANS
218 EAST 50TH STREET
NEW YORK NY , 10022
UNITED STATES

Correspondent e-mail: fcollucci@colucci-umans.com , klyon@colucci-umans.com , email@colucci-umans.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
TROI.NET	Response After Non-Final Action - Entered	<u>85872769</u>	

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Oct 22, 2013	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Oct 23, 2013	Dec 02, 2013
3	PENDING, INSTITUTED	Oct 23, 2013	

EXHIBIT B



UNITED STATES POSTAGE
PITNEY BOWES
02 1P
\$ 001.120
0004406703 OCT 22 2013
MAILED FROM ZIP CODE 10022

LAW OFFICES
COLUCCI & UMANS
218 EAST 50th STREET
NEW YORK, NEW YORK 10022-7681

TO:

Troi, LLC
601 West Riverside
Suite 800
Spokane, Washington 99201

NOT DELIVERABLE
AS ADDRESSED,
UNABLE TO FORWARD



EXHIBIT C

Katherine Lyon

From: Katherine Lyon
Sent: Monday, November 04, 2013 10:07 PM
To: 'bjeckle@lukins.com'
Cc: Frank Colucci
Subject: Petition for Cancellation of Reg. No. 4,130,088
Attachments: 2013 10 22 - Petition for Cancellation of Reg. 4130088.pdf

Dear Sir or Madam,

Please find attached, as a courtesy, a copy of a Petition for Cancellation of your United States Trademark Registration No. 4,130,088, which petition was filed on October 22, 2013 by Techworld Technologies d/b/a Troi.net with the Trademark Trial & Appeal Board of the United States Patent & Trademark Office. A copy of the Petition for Cancellation was served on you at your address of record, 601 West Riverside, Suite 800, Spokane, Washington 99201, but was returned as undeliverable. Should you receive this message, please contact the United States Patent & Trademark Office to update your records.

Very truly yours,

Katherine M. Lyon

Colucci & Umans

218 East 50th Street | New York, NY 10022-7681

Tel. No.: (212) 935-5700 | Fax: (212) 935-5728

Email: klyon@colucci-umans.com | www.colucci-umans.com

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 4,130,088
Issued: April 24, 2012

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TECHWORLD TECHNOLOGIES d/b/a TROI.NET, : Cancellation

Petitioner, : No.

v. :

TROI, LLC, :

Respondent. :

- - - - - x

PETITION FOR CANCELLATION

Petitioner, Techworld Technologies d/b/a Troi.net, (herein "Petitioner") a corporation organized under the laws of the state of New York, having a business address of 1200 South Avenue, Suite 102, Staten Island, New York 10314 believes that it is and will be damaged by the continued registration of United States Registration No. 4,130,088 of the mark TROI for technology support services, namely, hosted, remote, and onsite software and hardware management services for monitoring the operation of computer hardware and software, maintaining computer software and administration of computer systems, namely, computer technology support services for trouble-shooting computer hardware and software in International Class 42, and pursuant to Section 14(3) of the Trademark Act of 1946, as amended, 15 U.S.C. §1064(3), hereby petitions to cancel said

registration.

As grounds therefor, Petitioner alleges:

1. Upon information and belief, Troi, LLC (herein "Respondent"), is a limited liability company organized under the laws of the state of Washington, having its principal office and place of business at 601 West Riverside, Suite 800, Spokane, Washington 99201.

2. On December 20, 2010, Respondent filed United States Application Serial No. 76/705,756 to register the mark TROI for technology support services, namely, hosted, remote, and onsite software and hardware management services for monitoring the operation of computer hardware and software, maintaining computer software and administration of computer systems, namely, computer technology support services for trouble-shooting computer hardware and software in International Class 42 based upon an allegation of use of the mark in commerce since at least as early as July 1, 2005.

3. On April 24, 2012, Respondent's United States Application Serial No. 76/705,756 to register the mark TROI for technology support services, namely, hosted, remote, and onsite software and hardware management services for monitoring the operation of computer hardware and software, maintaining computer software and administration of computer systems, namely, computer technology support services for trouble-shooting computer hardware and software in International Class 42 matured to registration and was assigned United States Registration No. 4,130,088.

4. Respondent is not and was never entitled to use or register the designation TROI on December 20, 2010, the date Respondent filed its application to register the subject mark, or on July 1, 2005, the date of its alleged first use, and/or on April 24, 2012, the date of registration.

5. On March 11, 2013 Petitioner filed its United States Application Serial No. 85/872,769 to register the mark TROI.NET for computer consultation; computer network configuration services in International Class 42, which was filed based on use of the subject mark in interstate commerce since January 1, 1999.

6. On June 28, 2013 the United States Patent and Trademark Office issued an Office Action which cited Respondent's registration as a bar to registration of Petitioner's mark on the ground of likelihood of confusion.

7. As a result of Petitioner's prior and continuous use of its mark TROI.NET for computer consultation; computer network configuration services in International Class 42, said mark has become exclusively associated in the minds of the public and the trade as indicating Petitioner as the origin or source of goods bearing said mark and as having acquired secondary meaning.

8. Petitioner's use of its mark TROI.NET for computer consultation; computer network configuration services in International Class 42 is prior to Respondent's filing date of its application to register the designation TROI for

technology support services, namely, hosted, remote, and onsite software and hardware management services for monitoring the operation of computer hardware and software, maintaining computer software and administration of computer systems, namely, computer technology support services for trouble-shooting computer hardware and software in International Class 42, as well as prior to Respondent's alleged date of first use of said designation.

8. The designation Respondent has registered, namely, TROI, so resembles Petitioner's mark TROI.NET, as to be likely, when applied to the services of Respondent, to cause confusion or mistake or to deceive persons by creating the erroneous impression that Respondent's services originate with or come from the same source as Petitioner's services, or are endorsed by, or are sponsored by Petitioner, or that Respondent and its services are connected or associated in some way with Petitioner, and the registration thereof is injurious to Petitioner.

9. Respondent's adoption and use of the designation TROI is without the license or permission of Petitioner.

10. As a result, continuance of United States Registration No. 4,130,088 of the mark TROI for technology support services, namely, hosted, remote, and onsite software and hardware management services for monitoring the operation of computer hardware and software, maintaining computer software and administration of computer systems, namely, computer technology support services for trouble-shooting computer

hardware and software in International Class 42, on the register is interfering with Petitioner's efforts to register its mark TROI.NET for computer consultation; computer network configuration services in International Class 42.

11. As such, Petitioner is likely to be damaged by the continued registration of abandoned United States Registration No. 4,130,088.

12. This petition is filed herewith and accompanied by the required fee of \$300.00 [37 C.F.R. 2.6(1)].

WHEREFORE, Petitioner, Techworld Technologies d/b/a Troi.net hereby prays that said Registration 4,130,088 be cancelled and/or that the Trademark Trial and Appeal Board grant to Petitioner such other and/or further relief as it may deem just and proper.

Dated: New York, New York
October 22, 2013

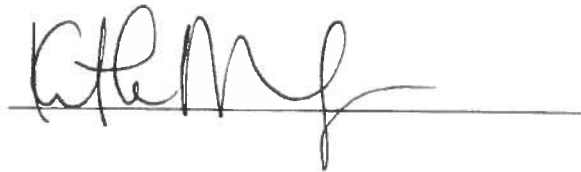
Respectfully submitted,

COLUCCI & UMANS

By Frank J. Colucci
Frank J. Colucci
Attorneys for Petitioner
218 East 50th Street
New York, New York 10022
(212) 935-5700

CERTIFICATE OF SERVICE

It is hereby certified that copies of the foregoing "Petition for Cancellation" have been forwarded via first class mail, postage prepaid, to Respondent, Troi, LLC at its address of record at 601 West Riverside, Suite 800, Spokane, Washington 99201 and its Attorney of Record, William A. Jeckle at 717 West Sprague Avenue, Suite 1600, Spokane, Washington, 99201-3923 this 22nd day of October, 2013.

A handwritten signature in dark ink, appearing to read 'W. A. Jeckle', is written over a horizontal line.